



THE EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Mr P A Towers

AND

Pin Point Recruitment Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at: North Shields Hearing Centre

On: Tuesday 13 February 2018

Before: Employment Judge Johnson

Appearances

For the Claimant: In Person, accompanied by Mr D Wilkinson

For the Respondent: Nr G Farrage, Account Manager

JUDGMENT

The claimant's complaint of unauthorised deduction from wages is not well-founded and is dismissed.

REASONS

- 1) By claim form presented on 15 December 2017, the claimant alleged that he had not been paid by the respondent for a days work which he had performed on 26 September 2017. The claimant alleges that he had worked 7.5 hours at £7.50 per hour and was therefore owed £56.25.
- 2) In its response form presented on 19 December 2017, the respondent maintained that the claimant had not carried out any work on Tuesday 26 September 2017.

- 3) Mr Towers today appeared before me and was accompanied by his lay representative, Mr Wilkinson. The respondent was represented by its account manager, Mr Farrage.
- 4) Mr Towers stated that he had been engaged by the respondent on an agency basis and had been assigned to work at Communisis at Baliol Business Park in Newcastle upon Tyne on Monday 25 September 2017. Mr Towers told me that he had turned up for work on Monday and Tuesday 25 and 26 September, but had then telephoned Mr Farrage on the Tuesday evening, to say that he considered the work, and particularly, the location to be unsuitable for him and that he would not be attending for any further work.
- 5) Mr Farrage's evidence was that the claimant attended for work on Monday 25 September, underwent the usual induction course and then worked for the remainder of that day, but did not turn up for work on Tuesday 26 September.
- 6) Mr Farrage told me that the claimant was obliged to sign a register when he arrived at the site on each day when he carried out work. Mr Farrage produced the original register and a photocopy, showing that Mr Towers had signed the register on Monday 25 September, but had not signed on Tuesday 26 September. Mr Towers confirmed that the signature for Monday 25 September was his own and that his signature did not appear on the register for Tuesday 26 September.
- 7) Mr Towers told me that he had telephoned Mr Farrage on the evening of Tuesday 26 September, to tell him that he would not be attending for any further work. Mr Farrage told me that he had received no such phone call, and that he himself had tried to contact Mr Towers by telephone on several occasions during the course of that day. Mr Towers produced a copy of a letter dated 24 October addressed to Pin Point Recruitment, in which he claimed payment of £56.25 for the work he did on 26 September. Mr Farrage confirmed that the letter had been received by the respondent, but it had not been brought to his attention and that no reply had ever been sent.
- 8) I carefully explained to both Mr Towers and Mr Farrage that the burden of proving that the work had been done and that the money was owed, fell upon Mr Towers. I explained that this was on of those cases where my decision would have to be based upon whose version of events I preferred. I explained that I considered this to be one of those cases where it was almost impossible to decide which version was correct, based solely upon the evidence put before me. The deciding factor is the lack of any signature from the claimant on the register for the Tuesday. In those circumstances, I have to find that the claimant has not discharged the burden of proving that the work was done and that the money is due. In those circumstances, the claim is dismissed.

EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON
22 February 2018**